IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

OP.No. 5858 of 2003(V)

PETITIONER:

DHARMANANDAN S/O. CHELLAPPAN,
KANDATHIL VEEDU, AYATHIL CHERRY, KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED
BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, COLLECTORATE, KOLLAM

3. DEPUTY THAHSILDAR (REVENUE RECOVERY)
COLLECTORATE, KOLLAM

4. KERALA STATE HOUSING BOARD, REPRESENTED
BY ASST.SECRETARY.

5. KERALA STATE HOUSING BOARD,
KOLLAM DIVISION.

R1 TO 3 BY G.P. SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.10233/2003 IN O.P. NO.5858/2003

DISMISSED:

6.12.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE PHOTOCOPY OF CHEQUE LEAF RS.75,983/- ON 25.11.2000 TOWARDS 1ST INSTALMENT DRAWN ON INDIAN BANK, KOLLAM DT.25.11.2000.

P2: .DO. RS.1,50,685/0 AS THE 2ND INSTALMENT THROUGH A CHEQUE DRAWN ON INDIAN BANK DT.21.12.2000.

P3: TRUE PHOTOCOPY OF LETTER DT.20.1.2001 ISSUED BY R4.

P4,P4(a),P4(b),P4(c): TRUE PHOTOCOPY OF RECEIPTS SHOWING THE PAYMENT MADE BY PETITIONER DT.7.3.2001, 10.4.2001, 9.5.2001, 12.6.2001.

P5: TRUE PHOTOCOPY OF NOTICE ISSUED BY R3 DT.20.5.2002.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.5858 of 2003

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Dated this the 6th day of December, 2007.

JUDGMENT

The O.P. is filed challenging recovery proceedings for recovery of arrears of house building loan availed by the petitioner from the Kerala State Housing Board. Even though O.P. is pending for the last four years, no counter or statement is filed by the Housing Board. I do not think the O.P. should be kept pending any longer. The petitioner's claim that Housing Board did not release the full loan amount sanctioned and therefore, petitioner suffered loss cannot be adjudicated in writ proceeding. Therefore, petitioner is bound to repay the loan amount availed with interest thereon. However, since Housing Board has OTS scheme, petitioner can approach the Housing Board and settle liability under OTS scheme. If liability is not settled, recovery can be continued against the petitioner. The O.P. is closed with the above observation.

C.N.RAMACHANDRAN NAIR
Judge

pms